

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 636 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHENDRAKUMAR M MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR ND NANAVATI for Petitioner
Mr. ST Mehta, APP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 25/02/97

ORAL JUDGEMENT

Petitioner herein is a Government servant who has been sought to be prosecuted for the alleged offence of demanding and accepting illegal gratification. The Government being the Competent Authority has issued a sanction to prosecute the petitioner under its Resolution dated 20th January, 1992. It is this resolution which is the subject-matter of challenge in this petition.

2. Learned advocate Mr. N. D. Nanavaty has appeared for the petitioner and has contended that the impugned sanction suffers from the vice of non-application of mind and requires to be quashed and set aside.

3. Be it noted that the validity of sanction can be challenged in the course of trial and the trial Court can examine such validity considering all the relevant factors. Besides, learned Additional Public Prosecutor Mr. S. T. Mehta states that the records of the matter are not available to him for perusal by the Court.

4. In the circumstances, this petition is dismissed with a liberty to the petitioner to raise the question of validity of sanction in course of trial. Rule is discharged.

25th February, 1997.

*Vyas.